IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 157 of 2005

GURMEET SINGH
V/S
BASANT KAUR & ORS

Mr. GR GOYAL, for the appellant / petitioner

Mr. BL CHOUDHARY for Mr. JR BENIWAL & Mr. BS SANDHU, for the respondent

Date of Order : 30.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The matter comes up for consideration of stay. However, learned counsel for the parties are agreed to the effect that since by the remand order fresh opportunity to lead evidence oral and documentary has not been granted, the learned lower Appellate Court itself may be directed to decide the matter on merits on the basis of the material on record. In my view, request is reasonable.

Accordingly, the appeal is allowed. The impugned order remanding the matter to the learned trial court is set aside, and the learned lower Appellate Court is directed to restore the appeal back on record, and hear the appeal on merits, and decide it on merits afresh. The record of the learned court below be returned forthwith. The parties to appear before the learned lower Appellate Court on 3.9.2007.

(N P GUPTA),J.

/sushil/